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NASA Policy Directive

NPD 3713.6P

Effective Date: June 08, 2007

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COMPLIANCE IS MANDATORY[Printable Format \(PDF\)](#)

Request Notification of Change

(NASA Only)

Subject: Delegation of Authority to Act in Matters Pertaining to Discrimination Complaints Under 29 C.F.R. Part 1614

Responsible Office: Office of Diversity & Equal Opportunity

[Mandatory Management Participation in NASA's Alternative Dispute Program in the
Equal Opportunity Complaint Process \(December 14, 2004\), NM 3713-11 \(NASA Only\)](#)

1. POLICY

The Assistant Administrator for Diversity and Equal Opportunity establishes the National Aeronautics and Space Administration's (NASA) policy in matters pertaining to discrimination complaints processing.

2. APPLICABILITY

This Directive is applicable to NASA Headquarters and Centers, including Component Facilities, and those employees paid from nonappropriated funds.

3. AUTHORITY

- a. Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. § 2000e-16 et seq.
- b. Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 621 et seq.
- c. Rehabilitation Act of 1973, as amended, 29 U.S.C. § 791 et seq.
- d. Equal Pay Act of 1963, as amended, 29 U.S.C. § 206(d).
- e. Civil Rights Act of 1991, 42 U.S.C. § 1981a.
- f. Alternative Dispute Resolution Act of 1996, as amended, 5 U.S.C. § 575 et seq.
- g. Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002, 5 U.S.C. § 2301 note.

- h. Executive Order 11,478, as amended, 3 C.F.R. 803 (1966-1970).
- i. Executive Order 12,106, as amended, 3 C.F.R. 263 (1978-1979).

4. APPLICABLE DOCUMENTS

- a. NPD 2010.2B, Alternative Dispute Resolution (ADR).
- b. Federal Sector Equal Employment Opportunity, 29 C.F.R. Part 1614.
- c. Employee Responsibilities and Conduct, 29 C.F.R. §§ 1600 - 1630.16.
- d. U.S. Equal Employment Opportunity Commission (EEOC) Management Directive (MD) 110.
- e. EEOC MD 715.

5. RESPONSIBILITY

- a. The Assistant Administrator for Diversity and Equal Opportunity reports directly to the Associate Administrator for Institutions and Management, and has direct access to the NASA Administrator on all matters pertaining to Equal Opportunity (EO) requirements under Federal law and NASA rules and policy. The Assistant Administrator for Diversity and Equal Opportunity shall keep the Administrator and Deputy Administrator fully and currently informed of significant actions, problems, and other matters of substance related to the exercise of the authority delegated hereunder.
- b. The Assistant Administrator for Diversity and Equal Opportunity shall administer an effective and efficient complaints processing and Alternative Dispute Resolution (ADR) process on Equal Employment Opportunity (EEO) issues.
- c. The Director, Complaints Management Division, shall oversee and manage the processing and adjudication of individual and class complaints of discrimination for the entire Agency, including ADR, and shall keep the Assistant Administrator for Diversity and Equal Opportunity fully and currently informed of significant actions, problems, and other matters related to the exercise of the authority delegated hereunder. In accordance with reference 4.a, NPD 2010.2B, §§ 5(b), 6(b), the Deputy General Counsel serving as the Dispute Resolution Specialist or his designee shall be kept informed of ADR activities and be able to comment on whether ADR is appropriate in a particular case.
- d. The Center Directors and the Assistant Administrator for Infrastructure and Administration, and Center Equal Opportunity Directors shall keep the Assistant Administrator for Diversity and Equal Opportunity fully and currently informed of significant actions, problems, and other matters of substance related to the exercise of the authority delegated hereunder.

6. DELEGATION OF AUTHORITY

- a. The Assistant Administrator for Diversity and Equal Opportunity is delegated authority for the following:
 - (1) Approving policies, plans, and procedures for implementation of NASA's EEO

programs.

(2) Evaluating the sufficiency of NASA's EEO programs and ensuring appropriate remedial action.

(3) Ensuring that the EEO complaints resolution process, including ADR, is prompt, fair, and impartial, as required by 29 CFR § 1614.102 and EEOC policy.

(4) Ensuring that EEO counseling and resolution attempts, including ADR, are provided at the informal stage.

(5) Ensuring that appropriate ADR processes are established throughout the Agency to address EEO matters and that such processes are utilized in both the informal and formal stages of the process.

(6) Ensuring that full cooperation is provided by all Agency managers, supervisors, and employees to EEO Counselors and Agency EEO personnel in the processing and resolution of precomplaint (informal) matters and complaints (formal) within the Agency.

(7) Ensuring that full cooperation is provided by all Agency managers, supervisors, and employees to the EEOC in the course of hearings and appeals, including granting the EEOC routine access to personnel records of the Agency when required in connection with an investigation.

(8) Receiving formal individual and class complaints and accepting or dismissing formal individual complaints, after legal sufficiency reviews conducted by the Office of the General Counsel (OGC).

(9) In consultation with the OGC, issuing final orders implementing or appealing decisions of an EEOC Administrative Judge, in regard to the acceptance or dismissal of class complaints.

(10) Conducting necessary investigations, empowering EEO Investigators to administer oaths or obtain notarized statements, and requiring statements of witnesses to be under oath or affirmation.

(11) Rendering final Agency decisions (FADs) after legal sufficiency review by the OGC. With respect to individual and class complaints from the Office of the Inspector General (OIG), the authority to issue FADs is retained within the Office of the Administrator (OA). If any conflicts arise between the OGC and the Assistant Administrator for Diversity and Equal Opportunity that cannot be resolved, then the issue will be referred to the Deputy Administrator for resolution.

(12) In consultation with the OGC, issuing final orders or final decisions implementing or appealing decisions of EEOC Administrative Judges or the EEOC Office of Federal Operations (OFO) on individual and class complaints of discrimination. With respect to individual and class complaints from the OIG, the authority to issue final orders or final decisions is retained within the OA.

(13) Requiring appropriate corrective actions, including awards of attorney fees and costs and compensatory damages, on individual and class complaints of discrimination. With respect to individual and class complaints from the OIG, the authority to require appropriate corrective actions is retained within the OA.

(14) In consultation with the OGC, making appeal and request for reconsideration determinations, setting forth the Agency's position on all complaint matters on appeal to

EEOC, and setting forth the Agency's position in oppositions to requests for reconsideration. In cases where a hearing has been held before an Administrative Judge, the OGC will provide input in setting forth the Agency's position on appeal or reconsideration, and will have an opportunity to draft the appeal or reconsideration. With respect to individual and class complaints from the OIG, the authority for all of the actions described above is retained within the OA.

(15) Monitoring compliance with all Agency settlement agreements; decisions of EEOC Administrative Judges; and final appellate decisions of EEOC's OFO. The Assistant Administrator for Diversity and Equal Opportunity will consult with the OGC as necessary. If any conflicts arise between the OGC and the Assistant Administrator for Diversity and Equal Opportunity, the issue will be referred to the Deputy Administrator for resolution.

b. Where the Assistant Administrator for Diversity and Equal Opportunity has a conflict of interest in an individual or class complaint, the NASA Deputy Administrator is delegated the authority enumerated in this NPD, paragraph 6.a.

c. The Center Directors and the Assistant Administrator for Infrastructure and Administration are delegated authority to resolve individual complaints of discrimination and to require appropriate remedial actions at any time prior to issuance of a FAD by the Assistant Administrator for Diversity and Equal Opportunity or the receipt of a decision from an EEOC Administrative Judge and subsequent final Agency action by the Assistant Administrator for Diversity and Equal Opportunity. With respect to individual complaints of discrimination from the OIG, the authority to resolve individual complaints of discrimination and to require appropriate remedial actions, as described above in this paragraph, is delegated to the Inspector General, in consultation with the OA. If the Inspector General has a conflict of interest, then the authority is retained within the OA.

d. In consultation with the Assistant Administrator for Diversity and Equal Opportunity and the NASA General Counsel, the Center Directors and the Assistant Administrator for Infrastructure and Administration are delegated authority to resolve class complaints and to require appropriate remedial actions at any time prior to issuance of a FAD by the Assistant Administrator for Diversity and Equal Opportunity or the receipt of a recommended decision from an EEOC Administrative Judge and subsequent final Agency action by the Assistant Administrator for Diversity and Equal Opportunity. With respect to class complaints from the OIG, the authority to resolve class complaints is delegated to the Inspector General, in consultation with the OA. If the Inspector General has a conflict of interest, then the authority is retained within the OA. Where two or more NASA Centers are involved in a class complaint, the Deputy Administrator is delegated the authority to resolve the matter.

e. The NASA General Counsel, or the Center Chief Counsel, or designee, as appropriate, is delegated the authority to designate Agency Representatives in individual complaints and in class complaints of discrimination. If the complaints involve personnel from the OIG, the Counsel to the Inspector General or designee will be asked to serve as or designate co-counsel.

f. The authority delegated in paragraph 6.a. may be redelegated to the Deputy Assistant Administrator for Diversity and Equal Opportunity.

g. The authority delegated to Center Directors and the Assistant Administrator for Infrastructure and Administration in paragraph 6.c. may be redelegated.

7. MEASUREMENTS

None.

8. CANCELLATION

NPD 3713.6O, dated August 5, 1999.

/s/ Michael D. Griffin
Administrator

ATTACHMENT A: (TEXT)

None.

(URL for Graphic)

None.

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